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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-12663-2022

Date of Decision: 27.10.2022

RAJESH

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Parminder Singh, Advocate
for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

JASJIT SINGH BEDI, J.(Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.215 dated 15.11.2020, registered under Sections 302, 201, 120-B IPC at Police Station Police Nighdu, Karnal.

2. The FIR came to be registered at the instance of the complainant-Geeta wife of Jatinder who stated that she had solemnized the marriage of her daughter Renu (deceased) on 10.06.2018 with Rajesh (petitioner) son of Hans Raj according to Hindu rites and ceremonies and dowry was given as per status. On 14.11.2020 at about 08.00 PM she spoke with Rajesh who told that all was well. Thereafter, at about 09.30 PM her daughter Renu spoke to her and stated that she was eating her meal and Rajesh along one Shashi Kumar were consuming liquor in the house. Renu informed her on the telephone about the quarrel which had taken place in the morning of the same day and she was weeping on the

phone. On 15.11.2020 in the morning when she called her daughter no one responded. Then at about 09.30 AM a call from Sonu was received that Renu had expired. Thereafter, she made a call to Rajesh (petitioner) but he did not pick up the phone. She then called Sonu and asked him not to cremate Renu. The petitioner along with Hans Raj Sharma, Roshan Kumar, Banti, Bablu, Sonu and Shashi Kumar had collectively murdered her daughter and without intimation to the police had cremated her.

3. The learned counsel for the petitioner contends that it was a simple marriage without any dowry and no child had been born out of the wedlock. The deceased had committed suicide. Information was given to the complainant immediately and the cremation took place with her consent. It was only later that the facts were twisted leading to the registration of the present FIR. The falsity of the allegations can be seen from the fact that all relatives were exonerated and the challan was presented against the petitioner and one Gopal Dass son of Jagdish who has been granted bail by this Court vide order dated 22.02.2022 passed in CRM-M-4266-2021. Moreover, now, the complainant had been examined as PW-1 and during her deposition she turned hostile. In this view of the matter, since the petitioner was in custody for about 02 years, the further incarceration of the petitioner was not required and thus he ought to be granted the concession of bail.

4. The State counsel while referring to the reply dated 17.07.2022 submits that after the occurrence and registration of the FIR, a detailed investigation took place. The disclosure statement of the

accused was recorded and a cloth (Chunni) was recovered from the fields. Two mobile phones were also recovered from his possession. After the investigation, the report under Section 173 Cr.P.C. was presented against the petitioner and his co-accused Gopal and the other accused came to be exonerated. Since the petitioner had admitted his guilt in his disclosure statement and the *Dupatta (Chunni)* used by him for strangulating the deceased had been recovered, the petitioner did not deserve the concession of bail. He however did not dispute the fact that the complainant who was examined as PW-1 had turned hostile.

5. I have heard the learned counsel for the parties at length.

6. Admittedly, the case is based on circumstantial evidence and the deceased died in her matrimonial home. However, in the present case, there is no postmortem as the deceased was cremated immediately after her death. The complainant-Geeta, mother of the deceased has been examined as PW-1 and has not supported the case of the prosecution qua any of the accused and thus has been declared hostile. In fact, as per her deposition she has stated that the deceased was residing happily with her husband Rajesh (petitioner) who never harassed her. Her daughter used to remain in depression and therefore, she died on 15.11.2020. The police present at the spot had obtained her signatures on blank papers. The Hon'ble Supreme Court in **“Dr. Gokarakonda Naga Saibaba Versus State of Maharashtra, 2016(2) RCR (Criminal) 675** and this Court in **“Devender Singh @ Devender Chhabra @ Tintu Versus State of Punjab, CRM-M-27957-2015 decided on 22.08.2016** has held that grant of bail can be considered, where witnesses stand examined.

7. The petitioner has been in custody since 15.11.2020 and 04 out of the 16 prosecution witnesses have been examined including the complainant who has turned hostile. Therefore, the further incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Rajesh son of Hans Raj is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

(JASJIT SINGH BEDI)
JUDGE

27.10.2022

JITESH

Whether speaking/reasoned Yes/No

Whether reportable Yes/No